

REMARKS

The application has been amended and is believed to be in condition for allowance.

Claim 19 has been cancelled.

Claim 13 recites, in part, "a threaded part (7) comprising a threaded rod (11) configured for attachment to an inner tube (3) of **a set of telescoping tubes (3, 5),**". This recitation is believed to give antecedent basis to Claim 22 reciting "the set of telescoping tubes (3, 5) connected to the clamping device" as the claim recites a combination. If this is not acceptable, applicant respectfully requests an acceptable amendment be proposed.

Claim 13 has also been amended to recite, consistent with the specification and Figure 3, that in use, the expansion bodies (17, 19) by direct contact engage a circumferentially uninterrupted interior surface of an outer tube (5) of the set of telescoping tubes (3, 5).

Claim 22 has been amended to clarify that the first threaded section (13) which has the greater diameter is attached to the inner tube (3) of the set of telescoping tubes (3, 5).

Claim 14 has been incorporated into claim 13.

Claims 13, 14, 18, 19, and 23 are rejected as obvious over MASS 5,256,237 in view of HOSHINO 5,419,650.

Claims 15, 17, 20, and 21 were rejected in further view of KRUGER 6,714,544.

Claims 22 and 24 were rejected in further view of HINNERS 4,134,703.

Claims 25 and 26 were rejected in further view of HINNERS.

Claim 13

As to the subject matter of claim 14, now included in claim 13, the Official Action does not appear to give this recitation patentable weight, in that it was stated that "Applicant does not disclose any criticality with respect to the two threaded sections having two different diameters."

Applicant respectfully disagrees.

With reference to Figure 3, and the disclosure found beginning at specification page 3, it is disclosed that the inventive clamping device 1 comprises a threaded part 7 which is fixed to the tube 3 by notches 9; its threaded rod 11 which projects over the tube 3 has two sections 13 and 15 with opposite threads. Here the thread of the section 13 which is adjacent to the tube 3 is made with a larger diameter than the thread of the threaded section 15 in the area of the free end of the threaded rod 11.

The problem solved by the features of claim 14 is to facilitate mounting expansion bodies 17 and 19 onto the threaded rod 11. As illustrated by figure 3, the clamping device 1 has

two conical expansion bodies 17 and 19. One will note that the expansion body 17, which is screwed onto section 13 (having a larger diameter) of threaded rod 11 may be simply slipped over section 15 (having a smaller diameter) of the threaded rod 11. Once expansion body 17 is screwed on section 13 of the threaded rod 11, the clamping part 21 is positioned as shown in Figure 3. Finally, the threaded body 19 is screwed onto section 15 (having the smaller diameter) of the threaded rod 11.

In particular, with the threaded rod 11 fixedly mounted to tube 3, one will note that threading bolt 11, having sections 13 and 15 with different diameters allows positioning expansion body 17, clamping part 21 and expansion body 19 without difficulties. In addition to the two rod diameters advantageously being of different diameters, it should be appreciated that the sections 15 and 19 of the threaded rod must have opposite pitches to achieve this construction.

As such, it is clear that applicant has provided a structure which includes a criticality with respect to the two threaded sections. This criticality is not taught or suggested in the prior art and is therefore non-obvious.

Additionally, MAAS does not teach that, in use, the expansion bodies (17, 19) by direct contact engage a circumferentially uninterrupted interior surface of an outer tube (5) of the set of telescoping tubes (3, 5). See for example

Figures 6-7. This is because MAAS is designed to expand the cylinder comprised of sections 21 and elastic sleeve 22.

As per claim 13, the rod of MAAS is not "a threaded rod (11) configured for attachment to an inner tube (3) of a set of telescoping tubes (3, 5),". MAAS has no teachings as to being used with a set of two tubes, one tube being an inner tube and the other tube being an outer tube.

As noted above, there is no reason to modify MAAS to include "a radially expandable clamping part (21) which is a hollow cylinder and which has a continuous lengthwise slot (25),". It is insufficient, that the prior art could be modified.

The Examiner bears the initial burden of presenting a *prima facie* case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). Only if that burden is met, then the burden shifts to the Appellants to overcome the *prima facie* case with argument and/or evidence. (*See Id.*) The Examiner has not satisfied this burden.

In performing the obviousness analysis, the Examiner makes findings of fact and must provide an articulated reasoning supporting the rejection. The Examiner's articulated reasoning in the rejection must possess a rational underpinning to support the legal conclusion of obviousness. *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). The Supreme Court citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006) stated that "rejections on obviousness grounds cannot be sustained by mere conclusory

statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."

There is no viable reasoning for modifying MAAS as suggested.

"One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." *In re Fine*, 837 F.2d 1071, 1075 (Fed. Cir. 1988). In an obviousness rejection, it is impermissible "to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art." *In re Wesslau*, 353 F.2d 238, 241 (CCPA 1965).

"The consistent criterion for determination of obviousness is whether the prior art would have suggested to one of ordinary skill in the art that this process should be carried out and would have a reasonable likelihood of success, viewed in the light of the prior art." *In re Dow Chemical Co.*, 837 F.2d 469, 473 (Fed. Cir. 1988).

In this situation, there is no suggestion to make the modifications needed to MAAS. Further, the Examiner has not shown that a functioning device would result.

Should the present rejections not be withdrawn, applicant respectfully requests a sketch that illustrates how

MAAS would be modified, in view of any relied-upon reference. Without such a sketch, the words in the rejection do not hold sufficient meaning to show that the "reasonable likelihood of success" standard would be satisfied.

Reconsideration and allowance of claim 13 are solicited. See that claim 22 recites that the first threaded section (13) which has the greater diameter is attached to the inner tube (3) of the set of telescoping tubes (3, 5). This feature is also not taught or suggested in the prior art and is therefore non-obvious.

Claim 23

The same arguments presented as to claim 13 apply to claim 23.

Claim 23 recites the clamping device in combination with an inner tube (3) and an outer tube (5). The claim requires that the threaded part (7) be inserted into an interior of the tube (3), the thread of a first of the two threaded sections (13) having a larger diameter than the opposing threaded thread of a second of the two threaded sections (15), wherein, greater diameter ends of the two expansion bodies (17, 19) are each dimensioned to frictional engage a circumferentially uninterrupted inner surface of the outer tube (5) having a second interior diameter greater than the first interior diameter, and moving the inner tube (3) relative to the outer tube (5) causes each of the two expansion bodies (17, 19) to move on the

respective threaded sections (13, 15) to approach one another and to widen the clamping part 21 radially.

MAAS does not teach or suggest such a combination, with or without the teachings of HOSHINO.

The combination of HOSHINO and MAAS does not make sense and taking the expandable clamping part 20 of HOSHINO and adding it to MAAS does not contribute to an improvement of the MAAS device.

Allowance of claim 23 is therefore solicited.

Claims 25-26

Claim 26 recites the clamping device in combination with two poles, wherein a thread of a first of the two threaded sections (13) has a larger diameter than an oppositely threaded thread of a second of the two threaded sections (15). The importance of this, and the non-obvious nature have been discussed above. This claim is believed allowable for the reasons discussed above.

As to claim 25, see the requirement that the clamping device (1) be within two tubes (3, 5). As discussed above, MAAS and HOSHINO would not lead one of skill to a device with a spread body in frictional engagement with an outer one of two tubes, or even to "a slotted, cylindrical clamping part (21), located around the threaded rod and between each of the two expansion bodies (17, 19)".

Although it is true that HINNERS teaches a device with two poles, there are no teachings in HINNERS that would adapt MAAS to be operative with two poles. Thus, there is no suggestion to make the modifications needed to MAAS. Further, the Examiner has not shown that a functioning device would result.

Should the present rejection of claim 25 not be withdrawn, applicant respectfully requests a sketch that illustrates how MAAS would be modified, in view of the relied-upon references. Without such a sketch, the words in the rejection do not hold sufficient meaning to show that the "reasonable likelihood of success" standard would be satisfied.

Thus, these claims are also believed non-obvious.

Reconsideration and allowance of all the claims are solicited.

Thus, each of these claims is believed patentable.

Withdrawal of the rejections and allowance of all the claims are requested.


Should there be any matters that need to be resolved in the present application; the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any

overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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